

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE JUNE 13, 2011

AMENDED IN SENATE MAY 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 472

Introduced by Assembly Member Ammiano

February 15, 2011

~~An act to add Section 11376.5 to the Health and Safety Code, relating to controlled substances. An act to amend Section 53395.8 of, and to add Sections 53395.81 and 53397.71 to, the Government Code, and to amend Sections 3 and 5 of Chapter 898 of the Statutes of 1997, relating to infrastructure financing districts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 472, as amended, Ammiano. ~~Controlled substances: overdose: punishment.~~ *Infrastructure financing districts: America's Cup venues and Treasure Island.*

Existing law authorizes the City and County of San Francisco to create infrastructure financing districts, including districts that include specified waterfront property, adopt infrastructure financing plans for those districts, and issue bonds financed by projected increases in ad valorem property taxes to fund certain public facilities, pursuant to a specified procedure. Existing property tax law establishes various procedures and requirements with respect to the annual apportionment and allocation of ad valorem property tax revenues, including increased revenues from these infrastructure financing districts.

This bill would authorize the adoption under these provisions of financing plans for special waterfront districts that include the

waterfront area in the City and County of San Francisco designated as the America's Cup venues and certain lands on Treasure Island, and the use of specified tax revenues produced in the districts for the construction of the Port of San Francisco's maritime facilities at Pier 27, improvement of publicly held waterfront lands used as viewing sites, affordable housing, and other matters, subject to specified allocation procedures. It would require the county board of supervisors to submit a fiscal analysis to the California Infrastructure and Economic Development Bank for review and approval before adopting the resolution authorizing the issuance of debt pursuant to these provisions. The bill would exempt the issuance of tax increment bonds in a waterfront district from local voter approval requirements and would authorize those bonds to be sold at a negotiated sale. The bill would enact other related provisions.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

~~Existing law, the California Uniform Controlled Substances Act, classifies controlled substances into 5 designated schedules, with the most restrictive limitations generally placed on controlled substances classified in Schedule I, and the least restrictive limitations generally placed on controlled substances classified in Schedule V. Existing law generally provides punishment for the unauthorized use, possession, and sale of controlled substances.~~

~~This bill would provide that it shall not be a crime for any person who experiences a drug-related overdose, as defined, who, in good faith, seeks medical assistance, or any other person who, in good faith, seeks medical assistance for the person experiencing a drug-related overdose, to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, under certain circumstances related to a drug-related overdose that prompted the seeking of medical assistance if that person does not obstruct medical or law enforcement personnel. The bill would provide that its provisions shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs, or laws prohibiting the forcible administration of drugs against a person's will. The bill would provide that it shall not affect liability for any offense that involves activities made dangerous by the consumption of controlled substances, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Areas of San Francisco, including portions of the San*
4 *Francisco waterfront, are characterized by deteriorating conditions*
5 *that cannot be remedied by private investment alone, and require*
6 *the use of public financing mechanisms to finance the rectification*
7 *of deteriorating conditions.*

8 *(b) In February 2010, the BMW ORACLE Racing Team (and*
9 *its successors, the “team”), sailing under the burgee of the Golden*
10 *Gate Yacht Club, won the 33rd America’s Cup, off the coast of*
11 *Valencia, Spain. The America’s Cup, which was first awarded in*
12 *1851, is the oldest sporting trophy in sailing history. On December*
13 *31, 2010, the team designated the City and County of San*
14 *Francisco to host the 34th America’s Cup sailing regatta. The*
15 *team has designated as the potential venue for the 34th America’s*
16 *Cup the San Francisco waterfront area generally between the*
17 *Golden Gate Bridge to the north and Pier 80 to the south. The*
18 *team anticipates holding the 34th America’s Cup match in San*
19 *Francisco Bay in 2013, with preliminary races worldwide*
20 *beginning in 2011 and in San Francisco Bay in 2012. The City*
21 *and County of San Francisco is conducting environmental review*
22 *of the 34th America’s Cup match and preregattas.*

23 *(c) An economic impact study by the Bay Area Council’s*
24 *Economic Institute and Beacon Economics released in July 2010*
25 *concludes that hosting the America’s Cup on the San Francisco*
26 *Bay would generate nearly 9,000 jobs and \$1.4 billion in direct*
27 *spending in the San Francisco Bay area and California, and nearly*
28 *\$1.9 billion nationwide. The study reports that the America’s Cup*
29 *is the world’s third largest sporting competition after the Olympics*
30 *and soccer’s World Cup.*

31 *(d) The San Francisco waterfront is a valuable public trust asset*
32 *of the state that provides special maritime, navigational,*
33 *recreational, cultural, and historical benefits to the people of the*
34 *region and the state. Realizing the goals of the port waterfront*
35 *land use plan, the San Francisco Bay Conservation and*
36 *Development Commission special area plan, and the port capital*
37 *plan is a matter of statewide significance, and rectifying the*
38 *deteriorating conditions along the San Francisco waterfront caused*

1 by deferred maintenance since 1969 by providing a financing
2 mechanism, through the use of incremental property tax revenues,
3 is a matter of statewide importance that will further the purposes
4 of both the public trust and the Burton Act trust. Public facilities
5 along the San Francisco waterfront to be financed pursuant to the
6 infrastructure financing district law will increase public access
7 to, and use or enjoyment of, public trust lands and are, therefore,
8 facilities of statewide and communitywide significance.

9 (e) The City and County of San Francisco has agreed to provide
10 the team with venues for regattas, team and competitor facilities,
11 sponsorship activities, spectator viewing, and ancillary activities,
12 subject to completion of environmental review and review and
13 approval of the planned facilities for the event. The venues are
14 likely to be located on water areas, piers and wharves, and
15 waterfront and landside property under Port of San Francisco
16 jurisdiction, generally from the Golden Gate Bridge to Pier 80,
17 and will include shared use of the city's new cruise terminal facility
18 to be built on Pier 27; all of the venues, as determined from time
19 to time, are collectively referred to as the "America's Cup venues."

20 (f) Portions of Naval Station Treasure Island, a former military
21 base located on Treasure Island and Yerba Buena Island in San
22 Francisco Bay, are potential America's Cup venues. Naval Station
23 Treasure Island was selected for closure and disposition by the
24 Base Closure and Realignment Commission in 1993, acting under
25 Public Law 101-510 and its subsequent amendments, and was
26 closed in 1997.

27 (g) In order to mitigate the serious economic effects of the
28 closure of Naval Station Treasure Island on the City and County
29 of San Francisco, its surrounding communities, and the state, the
30 Legislature enacted the Treasure Island Conversion Act of 1997
31 (Chapter 898 of the Statutes of 1997), which grants in trust to the
32 Treasure Island Development Authority the state's sovereign
33 interest in former and existing tidelands within Naval Station
34 Treasure Island, and establishes the authority as the trust
35 administrator for those lands for the benefit of the people of the
36 state in conformance with the public trust for commerce,
37 navigation, and fisheries.

38 (h) The Navy and the authority have negotiated an agreement
39 for the transfer of the Navy-owned portion of the Treasure Island
40 (TI) property, as defined in paragraph (13) of subdivision (l) of

1 *Section 53395.81. Portions of the TI property will be subject to*
2 *the public trust upon their transfer from federal ownership.*

3 *(i) The proposed reuse and development of the TI property*
4 *includes an innovative and comprehensive land use and*
5 *transportation program designed to discourage motor vehicle*
6 *usage, reduce vehicle miles traveled, encourage public transit,*
7 *and serve as a model of sustainable neighborhood development*
8 *in furtherance of the California Global Warming Solutions Act of*
9 *2006 (Division 25.2 (commencing with Section 38500) of the*
10 *Health and Safety Code). The proposed reuse and development of*
11 *the TI property will meet or exceed the requirements of the*
12 *California Green Building Standards Code.*

13 *(j) The proposed reuse and development of the TI property will*
14 *provide significant benefits to the region and the state, including,*
15 *but not limited to, converting the TI property to productive reuse;*
16 *leveraging significant federal funding for the Navy's environmental*
17 *remediation of the TI property; providing public facilities that are*
18 *of benefit to the region and the state by increasing public access*
19 *to, and use and enjoyment of, public trust lands, such as*
20 *transportation facilities, public parks, open space, and recreational*
21 *facilities; increasing the region's supply of affordable housing;*
22 *and rehabilitating, restoring, and preserving historical structures*
23 *listed on the National Register of Historic Places.*

24 *(k) The City of San Francisco intends to establish infrastructure*
25 *financing districts to finance public facilities along the San*
26 *Francisco waterfront through its port and the authority or another*
27 *related entity, including one or more districts covering any*
28 *approved America's Cup venues. Due to the extraordinary capital*
29 *needs of the port, and in order to mitigate the serious economic*
30 *effects of the closure of Naval Station Treasure Island on the City*
31 *and County of San Francisco, the region, and the state, it is the*
32 *intent of the Legislature in enacting this act to provide the City of*
33 *San Francisco, its port, and the authority the widest latitude, within*
34 *the framework of the infrastructure financing district law, to create*
35 *and operate infrastructure financing districts to construct needed*
36 *public facilities on waterfront lands in order to meet the stated*
37 *goals of statewide and communitywide significance.*

38 *(l) The plan for the development of the TI property, including*
39 *the use of one or more waterfront districts under this act, will be*
40 *fiscally sustainable, will create significant numbers of new*

1 construction and permanent jobs, will address the problems of
2 greenhouse gas emissions and transportation, and will promote
3 infill development. Development of the TI property presents a
4 particularly advantageous opportunity to benefit the City and
5 County of San Francisco, the region, and the state due to special
6 and unique circumstances, including, without limitation, the
7 benefits described above, the extraordinary location of the TI
8 property, and the ability to leverage significant federal and other
9 external funding. In addition, this act would provide a method for
10 increasing, improving, and preserving low- and moderate-income
11 housing on the TI property.

12 (m) The TI property is substantially undeveloped and, in a
13 waterfront district containing the TI property, all improvements
14 authorized by this act would have communitywide significance.

15 SEC. 2. Section 53395.8 of the Government Code is amended
16 to read:

17 53395.8. (a) This section applies only to the City and County
18 of San Francisco, and to any waterfront district.

19 (b) In addition to the findings and declarations in Section 53395,
20 the Legislature further finds and declares that ~~consolidating in a~~
21 ~~single public agency the responsibility to administer providing the~~
22 ~~ability to capture property tax increment revenues to finance~~
23 ~~needed public facilities in waterfront lands in San Francisco that~~
24 ~~are subject to the public trust and the ability to capture property~~
25 ~~tax increment revenues to finance needed public facilities in to the~~
26 ~~public agencies with the responsibility to administer~~ those areas
27 will further the objectives of the public trust and enjoyment of
28 those trust lands by the people of the state.

29 (c) For purposes of this section, the following terms have the
30 following meanings except as otherwise provided:

31 (1) “Affected taxing entity” means any governmental taxing
32 agency, except San Francisco and its local educational agencies,
33 that levied or had levied on its behalf a property tax on all or a
34 portion of the land located in the proposed district in the fiscal
35 year prior to the designation of the district, all or a portion of which
36 the district proposes to collect in the future under its infrastructure
37 financing plan.

38 (2) “Base year” means the fiscal year during which any
39 infrastructure financing plan adopted under this chapter becomes
40 effective.

1 (3) “Board” means the Board of Supervisors of the City and
2 County of San Francisco, which shall be the legislative body for
3 any district formed under this section.

4 (4) “*Burton Act*” means *Chapter 1333 of the Statutes of 1968,*
5 *as amended.*

6 (5) “*Burton Act trust*” means *the statutory trust imposed by the*
7 *Burton Act.*

8 ~~(4)~~

9 (6) “Debt” means loans, advances, or other forms of
10 indebtedness and financial obligations, including, but not limited
11 to, commercial paper, variable rate demand notes, all moneys
12 payable in relation to the debt, and all debt service coverage
13 requirements in any debt instrument, in addition to the obligations
14 specified in the definition of “debt” in Section 53395.1.

15 ~~(5)~~

16 (7) “District” means any district created under this chapter,
17 including any project area within a district.

18 ~~(6)~~

19 (8) “ERAF” means the Educational Revenue Augmentation
20 Fund.

21 ~~(7)~~

22 (9) “ERAF-secured debt” means debt incurred to finance a Pier
23 70 district subject to a Pier 70 enhanced financing plan that is
24 secured by and will be repaid from the ERAF share.

25 ~~(8)~~

26 (10) “ERAF share” means the county ERAF portion of
27 incremental tax revenue committed to a Pier 70 district under a
28 Pier 70 enhanced financing plan.

29 ~~(9)~~

30 (11) “Local educational agencies” means, collectively, the San
31 Francisco Unified School District, the San Francisco Community
32 College District, and the San Francisco County Office of
33 Education.

34 ~~(10)~~

35 (12) “Mirant site” means the San Francisco waterfront land
36 owned by Mirant Corporation, on which it or its affiliate formerly
37 operated a coal gasification powerplant.

38 ~~(11)~~

39 (13) “Pier 70 district” means a waterfront district that includes
40 65 acres of waterfront land in the area near Pier 70.

~~(12)~~
(14) “Pier 70 enhanced financing plan” means an infrastructure district financing plan for a Pier 70 district that contains a provision authorized under subparagraph (D) of paragraph (3) of subdivision (g).

~~(13)~~
(15) “Port” means the Port of San Francisco.

~~(14)~~
(16) “Project area” means a defined area designated for development within a waterfront district formed under this chapter in accordance with subdivision (g).

~~(15)~~
(17) “Public facilities” means facilities and, where the context requires, related services, authorized to be financed in any part by a district formed under this chapter in accordance with subdivision (g).

~~(16)~~
(18) “San Francisco” means the City and County of San Francisco. For purposes of applying this chapter, San Francisco is a city.

~~(17)~~
(19) “Waterfront district” means a district formed under this chapter on land under port jurisdiction along the San Francisco waterfront *and any special waterfront district as defined in Section 53395.81*.

~~(18)~~
(20) “Waterfront set aside” means the restricted funds required to be set aside under clause (ii) of subparagraph (C) of paragraph (3) of subdivision (g).

(d) In addition to the facilities and services authorized by Section 53395.3, a waterfront district may finance any of the following:

(1) Remediation of hazardous materials in, on, under, or around any real or tangible property.

(2) Seismic and life-safety improvements to existing buildings.

(3) Rehabilitation, restoration, and preservation of structures, buildings, or other facilities having special historical, architectural, or aesthetic interest or value and that are listed on the National Register of Historic Places, are eligible for listing on the National Register of Historic Places individually or because of their location

1 within an eligible registered historic district, or are listed on a state
2 or local register of historic landmarks.

3 (4) Structural repairs and improvements to piers, seawalls, and
4 wharves.

5 (5) Removal of bay fill.

6 (6) Stormwater management facilities, other utility
7 infrastructure, or public open-space improvements.

8 (7) Shoreline restoration.

9 (8) Other repairs and improvements to maritime facilities.

10 (9) Planning and design work that is directly related to any
11 public facilities authorized to be financed by a waterfront district.

12 *(10) Reimbursement payments made to the California*
13 *Infrastructure and Economic Development Bank in accordance*
14 *with paragraph (5) of subdivision (f) of Section 53395.81, and*
15 *paragraph (5) of subdivision (g) of Section 53395.81.*

16 (e) A waterfront district may include, and finance public
17 facilities on, tidelands and submerged lands, including filled or
18 unfilled lands, subject to the public trust for commerce, navigation,
19 and fisheries, and the applicable statutory trust grant or grants.
20 Public facilities located on tidelands and submerged lands shall
21 serve and promote uses and purposes consistent with the public
22 trust and applicable statutory trust grants. Public facilities that
23 increase access to, or the use or enjoyment of, public trust lands
24 will be deemed to be facilities of communitywide significance that
25 provide significant benefits to an area larger than the area of the
26 district.

27 (f) Public facilities financed by a waterfront district shall be
28 public trust assets subject to the administration and control of the
29 ~~port~~ district, except for the following:

30 (1) Utility infrastructure and public transportation facilities,
31 except maritime transportation facilities that are administered and
32 controlled by another entity under an agreement with the port.

33 (2) Public facilities on land located in a previously formed
34 waterfront district that the port subsequently leases, sells, or
35 otherwise transfers to any person free of the public trust, the Burton
36 Act trust, and any additional restrictions on use or alienability
37 created by the Burton Act transfer agreement, provided that the
38 State Lands Commission has concurred in the lifting of trust
39 restrictions on the transferred land and that the transferred land
40 will remain in and subject to the district.

1 (3) *Any improvement or facility financed by a TI district as*
2 *defined in Section 53395.81.*

3 (g) For a waterfront district, the requirements of this subdivision
4 supplant and replace the provisions of Sections 53395.10 to
5 53395.25, inclusive. The board may adopt or amend one or more
6 infrastructure financing plans for districts along the San Francisco
7 waterfront according to the procedures in this section. ~~A~~ *Except*
8 *as provided otherwise in this subdivision or in Section 53395.81,*
9 *the provisions of subdivisions (a) and (b) of Section 53395.4 shall*
10 *not apply to a waterfront district. A waterfront district may be*
11 *formed and become effective at any time. A district may be divided*
12 *into project areas, each of which may be subject to distinct time*
13 *limitations established under this subdivision.*

14 (1) The board shall initiate proceedings for the establishment
15 of a district by adopting a resolution of intention to establish the
16 proposed district that does all of the following:

17 (A) States an infrastructure financing district is proposed to be
18 established and describes the boundaries of the proposed district.
19 The boundaries may be described by reference to a map on file in
20 the office of the clerk of the board.

21 (B) States the type of public facilities proposed to be financed
22 by the district.

23 (C) States that incremental property tax revenue from San
24 Francisco and some or all affected taxing entities within the district,
25 but none of the local educational agencies, may be used to finance
26 these public facilities.

27 (D) Directs the executive director of the port, or an appropriate
28 official designated by the executive director, to prepare a proposed
29 infrastructure financing plan.

30 (2) The board shall direct the city clerk to mail a copy of the
31 resolution of intention to any affected taxing entities.

32 (3) The proposed infrastructure financing plan shall be consistent
33 with the general plan of San Francisco, as amended from time to
34 time, and shall include all of the following:

35 (A) A map and legal description of the proposed district, which
36 may include all or a portion of the district designated by the board
37 in its resolution of intention.

38 (B) A description of the public improvements and facilities
39 required to serve the development proposed in the district,
40 including those to be provided by the private sector, those to be

1 provided by governmental entities without assistance under this
2 chapter, those public facilities to be financed with assistance from
3 the proposed district, and those to be provided jointly. The
4 description shall include the proposed location, timing, and
5 projected costs of the public improvements and facilities.

6 (C) A financing section that shall contain all of the following:

7 (i) A provision that specifies the maximum portion of the
8 incremental tax revenue of San Francisco and of any affected
9 taxing entity proposed to be committed to the district, and affirms
10 that the plan will not allocate any portion of the incremental tax
11 revenue of the local educational agencies to the district.

12 (ii) Limitations on the use of levied taxes allocated to and
13 collected by the district that provide that incremental tax revenues
14 allocated to a district must be used within the district for purposes
15 authorized under this section, and that not less than 20 percent of
16 the amount allocated to a district shall be set aside to be expended
17 solely on shoreline restoration, removal of bay fill, or waterfront
18 public access to or environmental remediation of the San Francisco
19 waterfront.

20 (iii) A projection of the amount of incremental tax revenues
21 expected to be received by the district, assuming a period of 45
22 years ~~from the base year of the infrastructure financing plan~~
23 *beginning on the date on which San Francisco projects that the*
24 *district will have received one hundred thousand dollars*
25 *(\$100,000) in incremental tax revenues under this chapter.*

26 (iv) Projected sources of financing for the public facilities to be
27 assisted by the district, including debt to be repaid with incremental
28 tax revenues, projected revenues from future leases, sales, or other
29 transfers of any interest in land within the district, and any other
30 legally available sources of funds.

31 (v) A limitation on the number of dollars of levied taxes that
32 may be divided and allocated to the district. Taxes shall not be
33 divided or be allocated to the district beyond this limitation, except
34 by amendment of the infrastructure financing plan pursuant to the
35 procedures in this subdivision.

36 (vi) A date on which the effectiveness of the infrastructure
37 financing plan and all tax allocations to the district will end and a
38 time limit on the district's authority to repay indebtedness with
39 incremental tax revenues received under this chapter, not to exceed
40 45 years from the date of the board's resolution of intent to issue

~~bonds to be repaid with the district has actually received one~~
~~hundred thousand dollars (\$100,000) in incremental tax revenues~~
under this chapter. After the time limits established under this
subparagraph, a district shall not receive incremental tax revenues
under this chapter.

(vii) An analysis of the costs to San Francisco for providing
facilities and services to the district while the district is being
developed and after the district is developed, and of the taxes, fees,
charges, and other revenues expected to be received by San
Francisco as a result of expected development in the district.

(viii) An analysis of the projected fiscal impact of the district
and the associated development upon any affected taxing entity.
If no affected taxing entities exist within the district because the
plan does not provide for collection by the district of any portion
of property tax revenues allocated to any taxing entity other than
San Francisco, the district has no obligation to any other taxing
entity under this subdivision.

(ix) A statement that the district will maintain accounting
procedures in accordance, and otherwise comply, with Section
6306 of the Public Resources Code for the term of the plan.

(D) For a Pier 70 district only, the Pier 70 enhanced financing
plan may contain a provision meeting the requirements of Section
53396 that allocates a portion of the incremental tax revenue of
San Francisco and of other designated affected taxing entities to
the Pier 70 district.

The portion of incremental tax revenue of San Francisco to be
allocated to the Pier 70 district must be equal to the portion of the
incremental tax revenue of the county ERAF proposed to be
committed to the Pier 70 district. In addition to all other
requirements under this section, a Pier 70 district shall also be
subject to the following additional limitations:

(i) A Pier 70 district subject to a Pier 70 enhanced financing
plan shall not be formed and become effective ~~for at least three~~
~~full fiscal years following the effective date of this section prior~~
~~to January 1, 2014.~~

(ii) Any Pier 70 enhanced financing plan shall contain all of the
following:

(I) A time limit on new ERAF-secured debt to finance the
district, which may not exceed 20 fiscal years from the fiscal year
in which any Pier 70 district subject to a Pier 70 enhanced financing

1 plan first issues debt. The ERAF-secured debt may be repaid over
2 the period of time ending on the time limit established under clause
3 (vi) of subparagraph (C). This time limit on new ERAF-secured
4 debt shall not prevent a Pier 70 district from subsequently
5 refinancing, refunding, or restructuring ERAF-secured debt if the
6 debt is not increased and the time during which the debt is to be
7 repaid is not extended beyond the time limit established under
8 clause (vi) of subparagraph (C).

9 (II) A statement that the Pier 70 district shall be subject to a
10 limitation on the number of dollars of the ERAF share that may
11 be divided and allocated to the Pier 70 district pursuant to the Pier
12 70 enhanced financing plan, including any amendments to the
13 plan, which shall be established in consultation with the county
14 auditor. This limitation and a schedule specifying the amount of
15 the ERAF share that must be divided and allocated to the district
16 in each succeeding fiscal year until all ERAF-secured debt has
17 been paid shall be included in the statement of indebtedness that
18 the Pier 70 district files for the 19th fiscal year after the fiscal year
19 in which any ERAF-secured debt is first issued. The ERAF share
20 shall not be divided and shall not be allocated to the Pier 70 district
21 beyond that limitation.

22 (III) The limitations established by subclauses (I) and (II) may
23 be amended only by amendment of this section. When the
24 ERAF-secured debt, if any, has been paid, all moneys thereafter
25 allocated to the ERAF share shall be paid into ERAF as taxes on
26 all other property are paid. In addition, beginning in the 21st fiscal
27 year after the fiscal year in which ERAF-secured debt is first
28 issued, any portion of the ERAF share in excess of the amount
29 required to meet the Pier 70 district's ERAF-secured debt service
30 obligations shall be paid into ERAF.

31 (4) The proposed infrastructure financing plan shall be mailed
32 to each affected taxing entity for review, together with any report
33 required by the California Environmental Quality Act (Division
34 13 (commencing with Section 21000) of the Public Resources
35 Code) that pertains to the proposed public facilities and any
36 proposed development project for which the public facilities are
37 needed, and shall be made available for public inspection. The
38 report also shall be sent to the San Francisco Planning Department
39 and the board.

(5) Except as provided in subdivision (i), the board shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entities for use in the Pier 70 district as set forth in the proposed infrastructure financing plan unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity that is proposed to be subject to division of taxes as set forth in the proposed infrastructure financing plan, and that resolution has been filed with the board at or prior to the time of the hearing. A resolution approving the plan adopted by the governing body of an affected taxing entity shall be deemed the affected taxing entity's agreement to participate in the plan for the purposes of Section 53395.19.

(6) If the governing body of an affected taxing entity has not approved the infrastructure financing plan before the board considers the plan, the board may amend the infrastructure financing plan to remove the allocation of the tax revenues of the nonconsenting affected taxing entity. If a plan is so amended, the plan also shall be amended to provide that San Francisco will allocate to the Pier 70 district funds equal on a dollar-for-dollar basis to the tax revenues that the Pier 70 district would have received from the allocation of tax revenues of the affected taxing entity that is removed from the plan.

(7) The board shall hold a public hearing regarding the infrastructure financing plan that shall be scheduled on a date no earlier than 60 days after the plan has been sent to each affected taxing entity, or in the absence of any affected taxing entities, no earlier than 30 days after the plan has been lodged with the clerk of the board. Notice of the public hearing must be published not less than once a week for four successive weeks in a newspaper designated by the board for the publication of official notices in San Francisco, or if the board no longer designates a newspaper for the publication of official notices, a newspaper of general circulation serving primarily San Francisco residents. The notice shall state that the district will be established to finance public facilities, briefly describe the public facilities and the proposed financial arrangements, including the proposed commitment of incremental tax revenue, describe the boundaries of the proposed district, and state the day, hour, and place when and where any persons having any objections to the proposed infrastructure

1 financing plan, or the regularity of any of the previous proceedings,
2 may appear before the board and object to the adoption of the
3 proposed infrastructure financing plan by the board.

4 (8) At the hour set in the required notices, the board shall
5 proceed to hear and pass upon all written and oral objections. The
6 hearing may be continued from time to time. The board shall
7 consider any recommendations of affected taxing entities, and all
8 evidence and testimony for and against the adoption of the
9 infrastructure financing plan.

10 (9) No election will be required to form the district, and at the
11 conclusion of the hearing, the board may adopt an ordinance
12 adopting the infrastructure financing plan, as drafted or as modified
13 by the board, or it may abandon the proceedings.

14 (10) Any public or private owner of land that is not within an
15 existing district, but that has any boundary line contiguous to a
16 boundary of the waterfront district, may petition the board for
17 inclusion of the land in the waterfront district without an election.
18 As a condition to inclusion of its land in the waterfront district,
19 the petitioning landowner shall acknowledge and agree that any
20 portion of the land within 100 feet of the San Francisco Bay
21 Conservation and Development Commission shoreline (shoreline
22 band) will include contiguous public access along the length of
23 the shoreline band, improved and maintained to standards equal
24 to adjacent waterfront public access ways on public land, as
25 certified by the San Francisco Bay Conservation and Development
26 Commission. Nothing in this section is intended to affect or limit
27 the authority of the San Francisco Bay Conservation and
28 Development Commission pursuant to Chapter 1 (commencing
29 with Section 66600) of Title 7.2, or any other law. This procedure
30 will apply to any petition to include the Mirant site in the Pier 70
31 district, but the board may amend the Pier 70 financing plan to
32 include the Mirant site in the Pier 70 district only after the Director
33 of Finance's approval.

34 (11) The ordinance creating a district and adopting or amending
35 an infrastructure financing plan shall establish the base year for
36 the district. The board may amend an infrastructure financing plan
37 by ordinance to divide an established district into one or more
38 project areas, to reduce the district area, or, to expand a waterfront
39 district to include the petitioning landowner's land in the district
40 in accordance with the board's established procedures. Any

1 ordinance adopting or amending an infrastructure financing plan
2 will be deemed an ordinance adopted for the purposes of Section
3 53395.23.

4 *(12) With respect to a waterfront district, San Francisco may*
5 *enter into an agreement for the construction of discrete portions*
6 *or phases of facilities. The agreement may include any provisions*
7 *that San Francisco determines are necessary or convenient, but*
8 *shall do all of the following:*

9 *(A) Identify the specific facilities or discrete portions or phases*
10 *of facilities to be constructed and purchased. San Francisco may*
11 *agree to purchase discrete portions or phases of facilities if the*
12 *portions or phases are capable of serviceable use as determined*
13 *by San Francisco.*

14 *(B) Notwithstanding subparagraph (A), when the purchase value*
15 *of a facility exceeds one million dollars (\$1,000,000), San*
16 *Francisco may agree to purchase discrete portions or phases of*
17 *the partially completed facility.*

18 *(C) Identify procedures to ensure that the facilities are*
19 *constructed pursuant to plans, standards, specifications, and other*
20 *requirements as determined by San Francisco.*

21 *(D) Specify a price or a method to determine a price for each*
22 *facility or discrete portion or phase of a facility. The price may*
23 *include an amount reflecting the interim cost of financing cash*
24 *payments that must be made during construction of the project, at*
25 *the discretion of San Francisco.*

26 *(E) Specify procedures for final inspection and approval of*
27 *facilities or discrete portions or phases of facilities, for approval*
28 *of payment and for acceptance and conveyance.*

29 (h) (1) All the amounts calculated under this subdivision shall
30 be calculated after deducting the waterfront set-aside *required*
31 *under clause (ii) of subparagraph (C) of paragraph (3) of*
32 *subdivision (g), or paragraph (3) or (4) of subdivision (e) of Section*
33 *53395.81, as applicable, from the total amount of tax increment*
34 *funds allocated to a district in the applicable fiscal year. The*
35 *payments made under this subdivision to the affected taxing entities*
36 *shall be allocated among the affected taxing entities in proportion*
37 *to the percentage share of property taxes each affected taxing entity*
38 *receives during the fiscal year the funds are allocated. The*
39 *percentage share shall be determined without regard to any amounts*

1 allocated to a city, county, or city and county under Sections 97.68
2 and 97.70 of the Revenue and Taxation Code.

3 (2) (A) Prior to incurring any debt, except loans or advances
4 from San Francisco, a district may subordinate to the debt the
5 amount required to be paid to an affected taxing entity under this
6 subdivision, if any, provided the affected taxing entity has approved
7 these subordinations as provided in this paragraph.

8 (B) At the time the district requests an affected taxing entity to
9 subordinate the amount to be paid to it, the district shall provide
10 the affected taxing entity with substantial evidence that sufficient
11 funds will be available to pay when due both the debt service on
12 the debt and the payments to the affected taxing entity required
13 under this subdivision.

14 (C) Within 45 days after receipt of the district's request, the
15 affected taxing entity shall approve or disapprove the request for
16 subordination. An affected taxing entity may disapprove a request
17 for subordination only if it finds, based upon substantial evidence,
18 that the district will not be able to pay when due the debt payments
19 and the amount required to be paid to the affected taxing entity.
20 If the affected taxing entity does not act within 45 days after receipt
21 of the district's request, the request to subordinate shall be deemed
22 approved and its deemed approval shall be final and conclusive.

23 (D) *For the purpose of this paragraph only, "affected taxing*
24 *entity" shall mean any governmental agency that levied, or had*
25 *levied on its behalf, a property tax on all or a portion of the land*
26 *located in the proposed district in the fiscal year prior to the*
27 *designation of the special waterfront district.*

28 (3) The Legislature finds and declares all of the following:

29 (A) The payments to be made under this subdivision are
30 necessary in order to alleviate the financial burden and detriment
31 that affected taxing entities may incur as a result of the adoption
32 of an infrastructure financing plan, and payments made under this
33 subdivision will benefit the district.

34 (B) The payments to be made under this subdivision are the
35 exclusive payments that are required to be made by a district to
36 affected taxing entities during the term of an infrastructure
37 financing plan.

38 (4) Nothing in this section requires a district, either directly or
39 indirectly, as a measure to mitigate a significant environmental
40 effect or as part of any settlement agreement or judgment brought

1 in any action to contest the validity of a district under Section
2 53395.6, to make any other payments to affected taxing entities,
3 or to pay for public facilities that will be owned or leased to an
4 affected taxing entity.

5 (i) The portion of taxes required to be allocated to the Pier 70
6 district under a duly adopted infrastructure financing plan shall be
7 allocated and paid to the district by the county auditor or officer
8 responsible for the payment of taxes into the funds of the respective
9 taxing entities under the procedure contained in this subdivision.
10 If the approved plan allocates to the Pier 70 district 100 percent
11 of the incremental tax revenue of San Francisco *that is available*
12 *under applicable law to be allocated to the Pier 70 district*, then
13 the district shall not make a payment to ERAF, but if the plan
14 allocates less than 100 percent of the incremental tax revenue of
15 San Francisco ~~to~~ *that is available under applicable law to be*
16 *allocated to the Pier 70 district*, then the district shall pay a
17 proportionate share of incremental tax revenue into ERAF.

18 (1) No later than October 1 of each year, for each district for
19 which the infrastructure financing plan provides for the division
20 of taxes, the district shall file with the county auditor or officer a
21 statement of indebtedness and a reconciliation statement for the
22 previous fiscal year certified by the chief financial officer of the
23 district.

24 (2) Each statement of indebtedness shall contain all of the
25 following:

26 (A) For each debt the district has incurred or entered into, all
27 of the following:

28 (i) The date the district incurred or entered into the debt.

29 (ii) The principal amount, term, purpose, interest rate, and total
30 interest payable over the term of the debt.

31 (iii) The principal amount and interest due in the fiscal year in
32 which the statement is filed.

33 (iv) The total amount of principal and interest remaining to be
34 paid over the term of the debt.

35 (B) The sum of the principal and interest due on all debts in the
36 fiscal year in which the statement is filed.

37 (C) The sum of principal and interest remaining to be paid on
38 all debts.

39 (D) The available revenues as of the end of the previous fiscal
40 year.

1 (3) The district may estimate the amount of principal or interest,
2 the interest rate, or term of any debt if the nature of the debt is
3 such that the amount of principal or interest, the interest rate, or
4 term cannot be precisely determined. The district may list on a
5 statement of indebtedness any debt incurred or entered into on or
6 before the date the statement is filed.

7 (4) Each reconciliation statement shall include all of the
8 following:

9 (A) A list of all debts listed on the previous year's statement of
10 indebtedness, if any.

11 (B) A list of all debts not listed on the previous year's statement
12 of indebtedness, but incurred or entered into in the previous year
13 and paid in whole or in part from incremental tax revenue received
14 by the district. This listing may aggregate into a single item debts
15 incurred or entered into in the previous year for a particular
16 purpose, such as relocation expenses, administrative expenses,
17 consultant expenses, or remediation of hazardous materials.

18 (C) For each debt described in subparagraph (A) or (B), all of
19 the following shall be included:

20 (i) The total amount of principal and interest remaining to be
21 paid as of the later of the beginning of the previous year or the
22 date the debt was incurred or entered into.

23 (ii) Any increases or additions to the debt occurring during the
24 previous year.

25 (iii) The amount paid on the debt in the previous year from
26 incremental tax revenue received by the district.

27 (iv) The amount paid on the debt in the previous year from
28 revenue other than incremental tax revenue received by the district.

29 (v) The total amount of principal and interest remaining to be
30 paid as of the end of the previous fiscal year.

31 (D) The available revenues of the district as of the beginning
32 of the previous fiscal year.

33 (E) The amount of incremental tax revenue received by the
34 district in the previous fiscal year.

35 (F) The amount of available revenue received by the district in
36 the previous fiscal year other than incremental tax revenue.

37 (G) The sum of the amounts paid on all debts from sources other
38 than incremental tax revenue, to the extent that the amounts are
39 not included as available revenues under subparagraph (F).

1 (H) The sum of the amounts specified in subparagraphs (D) to
2 (G), inclusive.

3 (I) The sum of the amounts specified in clauses (iii) and (iv) of
4 subparagraph (C) of paragraph (4).

5 (J) The amount determined by subtracting the amount
6 determined under subparagraph (I) from the amount determined
7 under subparagraph (H). The amount determined under this
8 paragraph shall be the available revenues as of the end of the
9 previous fiscal year to be reported in the statement of indebtedness.

10 (5) For the purposes of this paragraph, available revenues shall
11 include all cash or cash equivalents held by the district that were
12 received by the district under subparagraph (D) of paragraph (3)
13 of subdivision (g) and all cash or cash equivalents held by the
14 district that are irrevocably pledged or restricted to payment of a
15 debt that the district has listed on a statement of indebtedness. In
16 no event shall available revenues include funds allocated to the
17 waterfront set aside.

18 (6) For the purposes of this subdivision: (A) the amount a district
19 is required to deposit into the waterfront set aside shall constitute
20 an indebtedness of the district, (B) no debt that a district intends
21 to pay from the waterfront set aside shall be listed on a statement
22 of indebtedness or reconciliation statement as a debt of the district,
23 and (C) any statutorily authorized deficit in or borrowing from
24 funds in the waterfront set aside shall constitute an indebtedness
25 of the district.

26 (7) The county auditor or officer shall allocate and pay, at the
27 same time or times as the payment of taxes into the funds of the
28 respective taxing agencies of the county, the portion of incremental
29 tax revenues allocated to each district under the infrastructure
30 financing plan. The amount allocated and paid shall not exceed
31 the amount of the district's remaining debt obligations, as
32 determined under subparagraph (C) of paragraph (2), minus the
33 amount of available revenues as of the end of the previous fiscal
34 year, as determined under subparagraph (D) of paragraph (2).

35 (8) The statement of indebtedness constitutes prima facie
36 evidence of the debts of the district.

37 (A) If the county auditor or other officer disputes the amount
38 of the district's debts as shown on the statement of indebtedness,
39 the county auditor or other officer, within 30 days after receipt of
40 the statement, shall give written notice to the district thereof.

1 (B) The district, within 30 days after receipt of notice under
2 subparagraph (A), shall submit any further information it deems
3 appropriate to substantiate the amount of any debt that has been
4 disputed. If the county auditor or other officer still disputes the
5 amount of debt, final written notice of that dispute shall be given
6 to the district, and the amount disputed may be withheld from
7 allocation and payment to the district as otherwise required by
8 paragraph (7). In that event, the auditor or other officer shall bring
9 an action in the superior court for declaratory relief to determine
10 the matter no later than 90 days after the date of the final notice.

11 (C) In any court action brought under this paragraph, the issue
12 shall involve only the amount of debt, and not the validity of any
13 contract or debt instrument or any expenditures pursuant thereto.
14 Payments to a trustee under a bond resolution or indenture of any
15 kind or payments to a public agency in connection with payments
16 by that public agency under a lease or bond issue shall not be
17 disputed in any action under this paragraph. The matter shall be
18 set for trial at the earliest possible date and shall take precedence
19 over all other cases except older matters of the same character.
20 Unless an action is brought within the time provided for herein,
21 the auditor or other officer shall allocate and pay the amount shown
22 on the statement of indebtedness as provided in paragraph (7).

23 (D) Nothing in this subdivision shall be construed to permit a
24 challenge to or attack on matters precluded from challenge or
25 attack by reason of Sections 53395.6 and 53395.7. However,
26 nothing in this subdivision shall be construed to deny a remedy
27 against the district otherwise provided by law.

28 (E) The Controller shall prescribe uniform forms consistent
29 with this subdivision for a district's statement of indebtedness and
30 reconciliation statement. In preparing these forms, the Controller
31 shall obtain the input of the San Francisco City Controller, the San
32 Francisco Tax Collector, and the ~~port~~ district.

33 (F) For the purposes of this subdivision, a fiscal year shall be a
34 year that begins on July 1 and ends the following June 30.

35 (j) (1) Prior to the adoption by the board of an infrastructure
36 financing plan providing for tax increment financing under
37 subparagraph (D) of paragraph (3) of subdivision (g), any affected
38 taxing entity may elect to be allocated, and every local educational
39 agency shall be allocated, all or any portion of the tax revenues
40 allocated to the district under subparagraph (D) of paragraph (3)

1 of subdivision (g) attributable to increases in the rate of tax
2 imposed for the benefit of the taxing entity which levy occurs after
3 the tax year in which the ordinance adopting the infrastructure
4 financing plan becomes effective.

5 (2) The governing body of any affected taxing entity electing
6 to receive allocation of taxes under this subdivision shall adopt a
7 resolution to that effect and transmit the same, prior to the adoption
8 of the infrastructure financing plan, to (A) the board, (B) the
9 district, and (C) the official or officials performing the functions
10 of levying and collecting taxes for the affected taxing entity. Upon
11 receipt by the official or officials of the resolution, allocation of
12 taxes under this section to the affected taxing entity shall be made
13 at the time or times allocations are made under subdivision (a) of
14 Section 33670 of the Health and Safety Code.

15 (3) An affected taxing entity, at any time after the adoption of
16 the resolution, may elect not to receive all or any portion of the
17 additional allocation of taxes under this section by rescinding the
18 resolution or by amending the same, as the case may be, and giving
19 notice thereof to the board, the district, and the official or officials
20 performing the functions of levying and collecting taxes for the
21 affected taxing entity. After receipt of a notice by the official or
22 officials that an affected taxing entity has elected not to receive
23 all or a portion of the additional allocation of taxes by rescission
24 or amendment of the resolution, any allocation of taxes to the
25 affected taxing entity required to be made under this section shall
26 not thereafter be made but shall be allocated to the district. After
27 receipt of a notice by the official or officials that an affected taxing
28 entity has elected to receive additional tax revenues attributable
29 to only a portion of the increases in the rate of tax, only that portion
30 of the tax revenues shall thereafter be allocated to the affected
31 taxing entity, and the remaining portion thereof shall be allocated
32 to the district.

33 (k) This section implements and fulfills the intent of Article 2
34 (commencing with Section 53395.10) and of Article XIII B and
35 ~~Section 16 of Article XVI of the California Constitution is~~
36 *consistent with the conclusion of California courts that tax*
37 *increment revenues are not “proceeds of taxes” for purposes of*
38 *the latter.* The allocation and payment to a district of the portion
39 of taxes specified in ~~subparagraph (D) of paragraph (3) of~~
40 ~~subdivision (g) this section~~ for the purpose of paying principal of,

1 or interest on, loans, advances, or indebtedness incurred for
 2 facilities *or the cost of acquisition and construction of facilities*
 3 under this section shall not be deemed the receipt by a district of
 4 proceeds of taxes levied by or on behalf of the district within the
 5 meaning or for the purposes of Article XIII B of the California
 6 Constitution, nor shall ~~such~~ *this* portion of taxes be deemed receipt
 7 of proceeds of taxes by, or an appropriation subject to limitation
 8 of, any other public body within the meaning or for purposes of
 9 Article XIII B of the California Constitution or any statutory
 10 provision enacted in implementation of Article XIII B. The
 11 allocation and payment to a district of this portion of taxes shall
 12 not be deemed the appropriation by a district of proceeds of taxes
 13 levied by or on behalf of a district within the meaning or for
 14 purposes of Article XIII B of the California Constitution.

15 *SEC. 3. Section 53395.81 is added to the Government Code,*
 16 *to read:*

17 *53395.81. (a) This section shall apply only to a special*
 18 *waterfront district.*

19 *(b) A special waterfront district may be created as a waterfront*
 20 *district pursuant to, and shall be subject to, all applicable*
 21 *requirements of Sections 53395.3 and 53395.8, except as provided*
 22 *in this section.*

23 *(c) The TI property is substantially undeveloped and, in a TI*
 24 *district, all improvements authorized by this chapter would have*
 25 *communitywide significance. The provisions of subdivision (c) of*
 26 *Section 53395.3 shall not apply to a TI district. A TI district may*
 27 *finance (1) the costs authorized by Sections 53395.3 and 53395.8,*
 28 *(2) the costs required to increase, improve, and preserve the supply*
 29 *of affordable housing on TI property, including the costs described*
 30 *in Section 53395.5, provided financed dwelling units may be*
 31 *located anywhere on TI property, and (3) the costs of work deemed*
 32 *necessary by the City and County of San Francisco to bring the*
 33 *TI property, whether that TI property is publicly or privately*
 34 *owned, into compliance with seismic safety standards or*
 35 *regulations. A TI district may not finance services or use the harbor*
 36 *fund to finance any costs of a TI district or to provide credit*
 37 *enhancement for debt issued by a TI district. No portion of a TI*
 38 *district may be included in a redevelopment project area later*
 39 *formed under Section 33000 of the Health and Safety Code, or any*
 40 *successor laws.*

1 (d) *The Board of Supervisors of the City and County of San*
2 *Francisco may, by resolution, vest in the authority the power under*
3 *this chapter to form one or more TI districts. The City and County*
4 *of San Francisco and the authority may take any actions relating*
5 *to TI property that would otherwise be vested in the Port of San*
6 *Francisco under this chapter.*

7 (e) (1) *The special waterfront district ERAF share produced*
8 *in a special waterfront district with a special waterfront district*
9 *enhanced financing plan shall be used only to finance the*
10 *following:*

11 (A) *With respect to a Port America's Cup district:*

12 (i) *Construction of the port's maritime facilities at Pier 27.*

13 (ii) *Planning and design work that is directly related to the*
14 *port's maritime facilities at Pier 27.*

15 (iii) *Planning, design, and construction of improvements to*
16 *publicly owned waterfront lands held by trustee agencies, such as*
17 *the National Park Service and the California State Parks, and used*
18 *as public spectator viewing sites for America's Cup-related events,*
19 *including the San Francisco Bay Trail along the Marina Green.*

20 (iv) *Future installations of shoreside power facilities on port*
21 *maritime facilities.*

22 (B) *With respect to a TI district, any purpose authorized by*
23 *subdivision (c).*

24 (2) *A special waterfront district enhanced financing plan for a*
25 *Port America's Cup district shall provide that the proceeds of*
26 *special waterfront district ERAF-secured debt are restricted for*
27 *use to finance directly, reimburse the port for its costs related to,*
28 *or refinance other debt incurred in, the construction of the port's*
29 *maritime facilities at Pier 27, including public access and public*
30 *open-space improvements. A special waterfront district enhanced*
31 *financing plan for a TI district shall provide that the proceeds of*
32 *the special waterfront district ERAF share and special waterfront*
33 *district ERAF-secured debt are restricted to finance authorized*
34 *improvements required for the development of TI property.*

35 (3) *Twenty percent in the aggregate of the special waterfront*
36 *district ERAF share allocated to a Port America's Cup district*
37 *under this section shall be set aside to finance costs of*
38 *improvements to federally- or state-owned waterfront lands*
39 *approved by trustee agencies such as the National Park Service*
40 *or the California State Parks as provided in clause (iii) of*

1 *subparagraph (A) of paragraph (1). The foregoing 20 percent set*
2 *aside shall not apply to the special waterfront district ERAF share*
3 *allocated to a TI district.*

4 *(4) A special waterfront district enhanced financing plan for a*
5 *TI district shall comply with both of the following:*

6 *(A) San Francisco shall use at least 20 percent of the*
7 *incremental tax revenue allocated to the TI district for the purposes*
8 *of increasing, improving, and preserving the supply of affordable*
9 *housing on TI property. That incremental tax revenue may be used*
10 *to finance the costs described in Section 53395.5, provided*
11 *financed dwelling units may be located anywhere on TI property.*

12 *(B) (i) San Francisco shall require that affordable housing*
13 *described in subparagraph (A) remain affordable housing for the*
14 *useful life of the dwellings, which may not be less than 55 years*
15 *for rental units and 45 years for owner-occupied units.*

16 *(ii) Notwithstanding clause (i), the authority may permit sales*
17 *of owner-occupied units prior to the expiration of the 45-year*
18 *period for a price in excess of the affordable housing price as*
19 *determined pursuant to Section 50052.5 of the Health and Safety*
20 *Code under a program adopted by the authority that protects the*
21 *authority's investment of funds in the unit, including, but not limited*
22 *to, a program that establishes a schedule of equity sharing that*
23 *permits retention by the seller of a portion of those excess sales*
24 *proceeds. The remainder of the excess sales proceeds shall be used*
25 *solely for affordable housing.*

26 *(iii) The City of San Francisco shall establish and record*
27 *covenants or restrictions implementing these requirements.*

28 *(5) The 20 percent set-aside requirements applicable to a special*
29 *waterfront district set forth in paragraphs (3) and (4), as*
30 *applicable, are in lieu of the set-aside requirement set forth in*
31 *clause (ii) of subparagraph (C) of paragraph (3) of subdivision*
32 *(g) of Section 53395.8.*

33 *(f) (1) Before adopting the resolution authorizing the first debt*
34 *issuance by a Port America's Cup district with a special waterfront*
35 *district enhanced financing plan authorized by this section, the*
36 *board of supervisors shall submit a fiscal analysis to the California*
37 *Infrastructure and Economic Development Bank for review and*
38 *approval.*

39 *(2) The bank may circulate the fiscal analysis to other state*
40 *agencies, including, but not limited to, the Department of Finance,*

1 the Department of Housing and Community Development, and the
2 Office of Planning and Research, and solicit their comments and
3 recommendations. After considering the comments and
4 recommendations of other state agencies, if any, the bank shall
5 take one of the following actions:

6 (A) Approve the fiscal analysis if the bank makes the finding
7 required pursuant to paragraph (4).

8 (B) Return the fiscal analysis to the board of supervisors with
9 specific recommendations for changes that would allow the bank
10 to approve the fiscal analysis.

11 (3) The bank shall have 90 days from the receipt of the fiscal
12 analysis to act pursuant to this subdivision. If the bank does not
13 act within 90 days, the fiscal analysis shall be deemed approved.

14 (4) For bank approval, the fiscal analysis shall demonstrate to
15 the bank's reasonable satisfaction a reasonable probability that
16 the economic activity proposed to occur as a result of hosting the
17 America's Cup event in California would result in an amount of
18 revenue to the General Fund with a net present value that is greater
19 than the net present value of the amount of property tax increment
20 revenues that would be diverted from ERAF over the term of the
21 Port America's Cup district, taking into consideration all pertinent
22 data. In reviewing the board's fiscal analysis, the bank shall
23 consider only those General Fund revenues that would occur
24 because of economic activity proposed to occur as a result of
25 hosting the America's Cup event in California. The bank shall not
26 consider those General Fund revenues that would have occurred
27 if the America's Cup event were not held in California.

28 (5) The legislative body shall reimburse the bank for the
29 reasonable cost of the review and approval of the fiscal analysis.

30 (g) (1) Before adopting the resolution authorizing the first debt
31 issuance by a TI district authorized by this section with a special
32 waterfront district enhanced financing plan, the legislative body
33 of the TI district shall submit a fiscal analysis to the California
34 Infrastructure and Economic Development Bank for review and
35 approval.

36 (2) The bank may circulate the fiscal analysis to other state
37 agencies, including, but not limited to, the Department of Finance,
38 the Department of Housing and Community Development, and the
39 Office of Planning and Research, and solicit their comments and
40 recommendations. After considering the comments and

1 *recommendations of other state agencies, if any, the bank shall*
2 *take one of the following actions:*

3 *(A) Approve the fiscal analysis if the bank makes the finding*
4 *required pursuant to paragraph (4).*

5 *(B) Return the fiscal analysis to the legislative body of the TI*
6 *district with specific recommendations for changes that would*
7 *allow the bank to approve the fiscal analysis.*

8 *(3) The bank shall have 90 days from the receipt of the fiscal*
9 *analysis to act pursuant to this subdivision. If the bank does not*
10 *act within 90 days, the fiscal analysis shall be deemed approved.*

11 *(4) For bank approval, the fiscal analysis shall demonstrate to*
12 *the bank's reasonable satisfaction a reasonable probability that*
13 *the economic activity proposed to occur as a result of development*
14 *of the TI property would result in an amount of revenue to the*
15 *General Fund with a net present value that is greater than the net*
16 *present value of the amount of property tax increment revenues*
17 *that would be diverted from ERAF over the term of the TI district,*
18 *taking into consideration all pertinent data. In reviewing the*
19 *board's fiscal analysis, the bank shall consider only those General*
20 *Fund revenues that would occur because of economic activity*
21 *proposed to occur as a result of developing the TI property. The*
22 *bank shall not consider those General Fund revenues that would*
23 *have occurred if the TI property is not developed.*

24 *(5) The legislative body shall reimburse the bank for the*
25 *reasonable cost of the review and approval of the fiscal analysis.*

26 *(h) The county auditor or officer responsible for the payment*
27 *of taxes into the funds of the respective taxing entities shall allocate*
28 *and pay to a special waterfront district the portion of taxes*
29 *required to be allocated pursuant to an approved special*
30 *waterfront district enhanced financing plan. If the plan allocates*
31 *100 percent of the incremental tax revenue of San Francisco that*
32 *is available under applicable law to be allocated to the special*
33 *waterfront district, then the special waterfront district shall not*
34 *make a payment to ERAF, but if the plan allocates less than 100*
35 *percent of the incremental tax revenue of San Francisco that is*
36 *available under applicable law to be allocated to a special*
37 *waterfront district then the special waterfront district shall pay a*
38 *proportionate share of incremental tax revenue into ERAF. The*
39 *special waterfront district shall file a statement of indebtedness*
40 *and a reconciliation statement annually in the same manner as*

1 *described in subdivision (i) of Section 53395.8. It is the intent of*
2 *this subdivision that any special waterfront district shall be deemed*
3 *to be a district formed pursuant to subparagraph (D) of paragraph*
4 *(3) of subdivision (g) of Section 53395.8 for purposes of allocation*
5 *and payment of taxes by the county auditor as set forth in*
6 *subdivision (i) of Section 53395.8.*

7 *(i) With respect to a TI district, the reference in subparagraph*
8 *(D) of paragraph (1) of subdivision (g) of Section 53395.8 to the*
9 *executive director of the port shall be deemed to be a reference to*
10 *the controller of the City and County of San Francisco, or an*
11 *appropriate official designated by the controller.*

12 *(j) This section implements and fulfills the intent of Article 2*
13 *(commencing with Section 53395.10) and of Article XIII B and is*
14 *consistent with the conclusion of California courts that tax*
15 *increment revenues are not “proceeds of taxes” for purposes of*
16 *the latter. The allocation and payment to a special waterfront*
17 *district of the special waterfront district ERAF share for the*
18 *purpose of paying principal of, or interest on, loans, advances, or*
19 *indebtedness incurred for facilities or the cost of acquisition and*
20 *construction of facilities under this section shall not be deemed*
21 *the receipt by the special waterfront district of proceeds of taxes*
22 *levied by or on behalf of the special waterfront district within the*
23 *meaning or for the purposes of Article XIII B of the California*
24 *Constitution, nor shall this portion of taxes be deemed the receipt*
25 *of proceeds of taxes by, or an appropriation subject to limitation*
26 *of, any other public body within the meaning or for purposes of*
27 *Article XIII B of the California Constitution or any statutory*
28 *provision enacted in implementation of Article XIII B. The*
29 *allocation and payment to a special waterfront district of this*
30 *portion of taxes shall not be deemed the appropriation by a special*
31 *waterfront district of proceeds of taxes levied by or on behalf of*
32 *a district within the meaning or for purposes of Article XIII B of*
33 *the California Constitution.*

34 *(k) Notwithstanding any provision to the contrary in Chapter*
35 *898 of the Statutes of 1997, as amended, or Chapter 543 of the*
36 *Statutes of 2004, as amended, in the event the port succeeds the*
37 *authority as trustee of some or all of the public trust lands within*
38 *the TI property, the port shall hold the lands subject to the public*
39 *trust for commerce, navigation, and fisheries and the requirements*
40 *applicable to the authority under Chapter 898 of the Statutes of*

1 1997, as amended, and the lands shall not be subject to the Burton
2 Act trust. The port shall deposit all revenues from those lands into
3 the Treasure Island trust fund, which shall be maintained
4 separately from the harbor fund.

5 (l) For purposes of this section, the meanings set forth in
6 subdivision (c) of Section 53395.8 shall apply as appropriate, and
7 the following terms have the following meanings, except as
8 otherwise provided:

9 (1) "Affordable housing" means housing, whether publicly or
10 privately owned, available at affordable housing cost, as defined
11 in Section 50052.5 of the Health and Safety Code, or affordable
12 rent, as defined in Section 50053 of the Health and Safety Code,
13 to persons and families of low or moderate income, as defined in
14 Section 50093 of the Health and Safety Code, lower income
15 households, as defined in Section 50079.5 of the Health and Safety
16 Code, very low income households, as defined in Section 50105
17 of the Health and Safety Code, and extremely low income
18 households, as defined in Section 50106 of the Health and Safety
19 Code, that is occupied by those persons and families.

20 (2) "Authority" means the Treasure Island Development
21 Authority or any other local agency, public agency, city
22 commission, or city department that the board of supervisors, by
23 resolution, designates as having jurisdiction over TI property or
24 authority under this chapter to form one or more TI districts.

25 (3) "Burton Act" means Chapter 1333 of the Statutes of 1968,
26 as amended.

27 (4) "Harbor fund" means the separate fund in the treasury of
28 the City and County of San Francisco established and maintained
29 in accordance with Section B6.406 of Appendix B of the charter
30 of the City and County of San Francisco and Section 4 of the
31 Burton Act.

32 (5) "Job Corps parcel" means that property lying within the
33 City and County of San Francisco comprising that portion of the
34 Tidelands and Submerged Lands in San Francisco Bay known as
35 Treasure Island (Case 22164-G), commonly referred to as the Job
36 Corps Center, Treasure Island, which was transferred to the United
37 States Department of Labor by that certain document entitled
38 "Transfer and Acceptance of Military Real Property," dated March
39 3, 1998.

1 (6) “Port America’s Cup district” means a special waterfront
2 district that is not a TI district.

3 (7) “Special waterfront district” means a waterfront district in
4 San Francisco that may comprise some or all of the America’s
5 Cup venues or potential venues, including TI property.

6 (8) “Special waterfront district enhanced financing plan” means
7 an infrastructure financing plan for a special waterfront district
8 that contains a provision substantially similar to that authorized
9 for a Pier 70 district under subparagraph (D) of paragraph (3) of
10 subdivision (g) of Section 55395.8, with only those changes deemed
11 necessary by the legislative body of the special waterfront district
12 to implement the financing of the improvements described in
13 paragraph (1) of subdivision (e).

14 (9) “Special waterfront district ERAF-secured debt” means
15 debt incurred in accordance with a special waterfront district
16 enhanced financing plan that is secured by and will be repaid from
17 the special waterfront district ERAF share. For a Port America’s
18 Cup district, special waterfront district ERAF-secured debt
19 includes the portion of any debt that is payable from the special
20 waterfront district ERAF share as long as the same percentage of
21 debt proceeds will be used for the purposes authorized by
22 paragraph (2) of subdivision (e). For a TI district, special
23 waterfront district ERAF-secured debt may be combined with any
24 other debt of the TI district.

25 (10) “Special waterfront ERAF share” means the county ERAF
26 portion of incremental tax revenue committed, as applicable, to a
27 special waterfront district under a special waterfront district
28 enhanced financing plan.

29 (11) “TI district” means a special waterfront district formed
30 on land constituting all or a portion of the TI property.

31 (12) “TI property” means all those lands comprised of portions
32 of the lands commonly known as Treasure Island and Yerba Buena
33 Island lying within the City and County of San Francisco, State
34 of California, described as follows, and the Job Corps Parcel if
35 and to the extent it is transferred to the authority from the United
36 States of America:

37 All those lands comprised of portions of the lands commonly
38 known as Treasure Island and Yerba Buena Island lying within
39 the City and County of San Francisco, State of California,
40 described as follows: That portion of the lands described in that

1 *certain Presidential Reservation of Goat Island (now Yerba Buena*
2 *Island), dated November 6, 1850, lying northwesterly of Parcel*
3 *57935-1 as described in that certain Quitclaim Deed, recorded*
4 *October 26, 2000, as Document Number 2000G855531, in the*
5 *office of the Recorder of the said City and County of San Francisco*
6 *(hereinafter referred to as Doc. 2000G855531); together with all*
7 *of the underlying fee to Parcel 57935-5 as described in said*
8 *Quitclaim Deed (Doc. 2000G855531) and all of the underlying*
9 *fee to Parcel 57935-6 as described in said Quitclaim Deed (Doc.*
10 *2000G855531), also together with that portion of the tide and*
11 *submerged lands in San Francisco Bay, relinquished to the United*
12 *States of America by that certain act of the Legislature of the State*
13 *of California by Statutes of the State of California of 1897, Chapter*
14 *81 (hereinafter referred to as Stat. 1897, Ch. 81); also together*
15 *with all of the Tidelands and Submerged Lands in San Francisco*
16 *Bay known as Treasure Island as described in that certain Final*
17 *Judgment of Condemnation, filed April 3, 1944, in the District*
18 *Court of the United States in and for the Northern District of*
19 *California, Southern Division, Case Number 22164-G (hereinafter*
20 *referred to as Case 22164-G), also together with all of that portion*
21 *of the lands described in that certain Presidential Reservation of*
22 *Goat Island (now Yerba Buena Island), dated November 6, 1850,*
23 *lying southeasterly of Parcel 57935-1 as described in that certain*
24 *Quitclaim Deed, recorded October 26, 2000, as Document Number*
25 *2000G855531, in the office of the Recorder of the said City and*
26 *County of San Francisco (hereinafter referred to as Doc.*
27 *2000G855531); excepting therefrom those lands shown as the*
28 *Lands of the United States Coast Guard on that certain Record of*
29 *Survey, entitled “Record of Survey #5923” recorded in Book DD*
30 *of Maps at Pages 24–28 on April 28, 2010; also excepting*
31 *therefrom, that portion of the said Tide and Submerged Lands in*
32 *San Francisco Bay, relinquished to the United States of America*
33 *(Stat. 1897, Ch. 81), within the “Army Reservation, Occupied by*
34 *U.S. Light House Service under Permit from Secretary of War*
35 *dated May 27, 1872” as shown and described upon that certain*
36 *map entitled “Plat of Army and Navy reservations on Yerba Buena*
37 *(Goat) Island, San Francisco Bay, California”; and further*
38 *excepting therefrom, that portion of the Tide and Submerged Lands*
39 *in San Francisco Bay, relinquished to the United States of America*
40 *(Stat. 1897, Ch. 81) which were transferred to the United States*

1 *Coast Guard by that certain document entitled “Transfer and*
2 *Acceptance of Military Real Property,” dated November 26, 2002.*
3 *As portions of said land are shown on those certain Records of*
4 *Survey filed for record: July 15, 2003, in Book M of maps at pages*
5 *85 through 95, inclusive, and as shown on the map entitled “Map*
6 *and Metes and Bounds Description of United States Military and*
7 *Naval Reservations, Yerba Buena (Goat) Island, California”*
8 *including land ceded by the State of California by Act of*
9 *Legislature of the State of California, approved March 9, 1897,*
10 *(Stat. Cal., 1897, p. 74) filed April 12, 1934, in Book N of Map at*
11 *Page 14; and on April 28, 2010, in Book DD of Maps at Pages*
12 *24–28, entitled “Record of Survey #5923”; recorded in the Office*
13 *of the Recorder of the City and County of San Francisco.*

14 *(13) “Treasure Island trust fund” means the special fund*
15 *established and maintained in accordance with Section 10 of*
16 *Chapter 898 of the Statutes of 1997.*

17 *SEC. 4. Section 53397.71 is added to the Government Code,*
18 *to read:*

19 *53397.71. Notwithstanding the provisions of this article, the*
20 *legislative body of a waterfront district established pursuant to*
21 *Section 53395.8 may, by resolution, authorize the issuance of*
22 *bonds without holding an election of the voters residing in the*
23 *waterfront district. The bonds of a waterfront district may be sold*
24 *at a negotiated sale subject to the notice requirements of Section*
25 *53397.10.*

26 *SEC. 5. Section 3 of Chapter 898 of the Statutes of 1997 is*
27 *amended to read:*

28 *Sec. 3. (a) The Legislature finds and declares all of the*
29 *following:*

30 *(b) It is the intent of the Legislature with the enactment of this*
31 *act to provide a means for mitigating the serious economic effects*
32 *of the closure of Naval Station Treasure Island on the City and*
33 *County of San Francisco, its surrounding communities, and the*
34 *State of California by vesting a single entity with redevelopment*
35 *authority over the property and, with respect to that portion of the*
36 *property subject to the public trust for navigation, commerce, and*
37 *fisheries, granting the state’s right, title, and interest in the former*
38 *naval station to the entity with primary responsibility for the*
39 *development and reuse of the property, and vesting in that entity*
40 *the power to administer the public trust.*

(1) That property known as Naval Station Treasure Island, which includes Treasure Island and Yerba Buena Island, was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510 and its subsequent amendments, and is scheduled for operational closure on October 1, 1997. The conversion of Naval Station Treasure Island to productive civilian reuse presents unique ~~redevelopment~~ *development* issues which would be best addressed by ~~an a public~~ agency created specifically for that purpose.

(2) All former and existing tide and submerged lands on the Naval Station, including all of Treasure Island and portions of Yerba Buena Island, will be subject to the public trust for navigation, commerce, and fisheries upon their release from federal ownership. In the absence of legislative action, this property would automatically be brought under the jurisdiction of the Port of San Francisco pursuant to, and subject to the terms and requirements of, the Burton Act (Chapter 1333 of the Statutes of 1968).

(3) Certain buildings and other structures constructed on Treasure Island during the period of federal ownership were built for nontrust purposes and are not adaptable for ~~trust-related~~ *trust-related* uses. These buildings and structures are in various stages of their useful lives, some having been constructed only a few years prior to the scheduled closure. The conversion of the lands underlying these buildings and structures to trust uses in the future should proceed in a manner that will enable the people of this state to benefit from the substantial investments made in these structures without hindering the overall goal of preserving the public trust.

(4) Treasure Island also contains hangars that were built for maritime aviation purposes. These structures may be utilized for trust uses in the future, but no trust related use has been identified for them in the near term.

~~(5) The creation of a single public agency that is vested with both redevelopment authority and~~ *Vesting* the power to administer the trust *in the designated local reuse authority* will facilitate the conversion of Naval Station Treasure Island to productive civilian reuse and is in the best interests of the people of this state.

SEC. 6. Section 5 of Chapter 898 of the Statutes of 1997, as amended by Section 218 of Chapter 140 of the Statutes of 2009, is amended to read:

~~Sec. 5. (a) Notwithstanding Article 2 (commencing with Section 33110) of Chapter 2 of Part 1 of Division 24 of the Health and Safety Code, the legislative body of the City and County of San Francisco may, by resolution, designate the authority or any successor entity or agency of the authority as the redevelopment agency with all of the rights, powers, privileges, immunities, authorities, and duties granted to a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, for the purpose of acquiring, using, operating, maintaining, converting, and redeveloping the property. Upon adoption of that resolution, the authority shall be considered a redevelopment agency for all purposes under state law, including, but not limited to, the purposes of Section 21090 of the Public Resources Code.~~

~~(b)~~

Sec. 5. (a) Notwithstanding any state or local law, ~~including, without limitation, Section 33111 of the Health and Safety Code,~~ the board of directors of the authority may include individuals who are officers or employees of the City and County of San Francisco or of the San Francisco Redevelopment Agency and those individuals are not precluded, solely by virtue of their status as officers or employees of the City and County of San Francisco or the San Francisco Redevelopment Agency, from participating in decisions as members of the board of directors.

~~(c)~~

(b) Notwithstanding Section 1090 of the Government Code and Section C8.105 of Appendix C of the San Francisco Charter, officers and employees of the City and County of San Francisco or the San Francisco Redevelopment Agency are not precluded, solely by virtue of their services as members of the board of directors, from participating in any decisions in their capacities as officers or employees of the City and County of San Francisco or the San Francisco Redevelopment Agency.

~~(d)~~

(c) Notwithstanding any other provision of law, the authority's employees are subject to the same civil service provisions as the employees of the City and County of San Francisco.

~~(e) Notwithstanding any other provision of law, the authority shall follow the same competitive bidding procedures applicable to redevelopment agencies in California.~~

1 ~~(f) Prior to the board of supervisor's approval of a~~
2 ~~redevelopment plan for the property, any contract to which the~~
3 ~~authority is a party worth more than one million dollars~~
4 ~~(\$1,000,000) or with a term of 10 or more years shall require the~~
5 ~~approval of the Board of Supervisors of the City and County of~~
6 ~~San Francisco.~~

7 ~~(g) Due to the unique status of the existing housing units as set~~
8 ~~forth in this chapter, which were formerly base housing and must~~
9 ~~be removed, the authority is not required to comply with Section~~
10 ~~33385 of the Health and Safety Code, as long as the authority~~
11 ~~complies with all of the following alternative requirements:~~

12 ~~(1) The authority shall consult with and obtain the advice of the~~
13 ~~existing Treasure Island/Yerba Buena Island Citizens Advisory~~
14 ~~Board, as created by Resolution No. 00-41-12/21 of the Treasure~~
15 ~~Island Development Authority Board, concerning the adoption~~
16 ~~and implementation of a redevelopment plan for Naval Station~~
17 ~~Treasure Island.~~

18 ~~(2) At least 120 days before the adoption of the Redevelopment~~
19 ~~Plan for Naval Station Treasure Island, the authority shall amend~~
20 ~~the membership composition of the Treasure Island/Yerba Buena~~
21 ~~Island Citizens Advisory Board to include not less than four~~
22 ~~specific slots for residents currently residing on Naval Station~~
23 ~~Treasure Island, including slots designated for low- and~~
24 ~~moderate-income residents.~~

25 ~~(3) The authority shall hold at least one public meeting to~~
26 ~~explain the new citizens advisory board composition. The authority~~
27 ~~shall provide written notice of the public meeting explaining the~~
28 ~~new citizens advisory board composition and the opportunity for~~
29 ~~Naval Station Treasure Island residents to serve on the citizens~~
30 ~~advisory board to all residents of Naval Station Treasure Island at~~
31 ~~the time of the public meeting. The authority shall proscribe the~~
32 ~~procedure for selection of the resident members of the citizens~~
33 ~~advisory board, which shall require that the resident members of~~
34 ~~the citizens advisory board be selected by a vote of the existing~~
35 ~~residents of the Naval Station Treasure Island. All resident member~~
36 ~~seats of the citizens advisory board added pursuant to this section~~
37 ~~shall be filled no later than 60 days prior to the adoption of the~~
38 ~~Redevelopment Plan for Naval Station Treasure Island. The~~
39 ~~authority may, but is not required to, increase the size of the~~
40 ~~citizens advisory board to include the resident members. The~~

1 authority is authorized and shall take any and all actions consistent
2 with this section to create specific slots for resident membership
3 on the citizens advisory board.

4 (4) ~~Persons of low- and moderate-income lawfully occupying~~
5 ~~the existing housing on Naval Station Treasure Island at the time~~
6 ~~the Redevelopment Plan for Naval Station Treasure Island is~~
7 ~~adopted, and at the time the existing housing is removed or~~
8 ~~demolished, shall be offered new permanent housing adequate to~~
9 ~~accommodate the household to be constructed within the~~
10 ~~redevelopment project area, at a cost or rent not exceeding the~~
11 ~~affordable housing costs or affordable rent, as defined by Section~~
12 ~~50052.5 or 50053 of the Health and Safety Code, as applicable.~~
13 ~~The redevelopment plan shall include provisions requiring the~~
14 ~~authority to implement this subdivision.~~

15 *(d) Amendments made to this section by the act adding this*
16 *subdivision shall take effect only after the Board of Supervisors*
17 *of the City and County of San Francisco adopts a resolution*
18 *authorizing the first debt issuance for a T1 district with a special*
19 *waterfront district enhanced financing plan authorized by Section*
20 *53395.81 of the Government Code.*

21 *SEC. 7. The Legislature finds and declares that a special law*
22 *is necessary and that a general law cannot be made applicable*
23 *within the meaning of Section 16 of Article IV of the California*
24 *Constitution because of the unique circumstances of the City and*
25 *County of San Francisco. The facts constituting the special*
26 *circumstances are:*

27 *Areas of San Francisco, including the portions of the San*
28 *Francisco waterfront, are characterized by deteriorating conditions*
29 *that cannot be remedied by private investment alone, and require*
30 *the use of public financing mechanisms to finance the rectification*
31 *of the deteriorating conditions. In order to adapt the provisions*
32 *of law governing infrastructure financing districts to these unique*
33 *circumstances, this special act is necessary.*

34 ~~SECTION 1. The Legislature finds and declares all of the~~
35 ~~following:~~

36 ~~(a) Drug overdose is the second leading cause of injury death~~
37 ~~in the United States, behind only motor vehicle accidents and ahead~~
38 ~~of firearms. California has the greatest number of overdose deaths~~
39 ~~in the country per year. Moreover, drug and alcohol overdose~~

1 morbidity and mortality are not confined to adults but also
2 devastate California's youth.

3 (b) The State Department of Alcohol and Drug Programs
4 reported that there were 3,102 overdose deaths in 2002, the first
5 year the department began tracking overdose deaths in California.
6 By 2006, the number of overdose deaths had grown to 3,646.

7 (c) Many overdose fatalities occur because peers delay or forgo
8 calling 911 or seeking emergency assistance for fear of arrest or
9 police involvement, which researchers continually identify as the
10 most significant barrier to the ideal first response of calling
11 emergency services. Furthermore, if criminal punishment is
12 intended to deter drug abuse, it is clearly too late to deter such
13 abuse when a person is already suffering from an overdose.

14 (d) The state's network of drug treatment providers, syringe
15 exchange programs, county public health departments, and others
16 who work with communities at high risk of drug overdose are well
17 positioned to disseminate education messages on the importance
18 of seeking emergency medical assistance to prevent overdose
19 deaths. In implementing this act, the Legislature intends to address
20 the drug user's reasonable fear that they, or the victim, might be
21 arrested if they seek medical assistance.

22 (e) It is the intent of the Legislature to encourage a witness of
23 a drug-related overdose to call 911 or seek other emergency
24 assistance in a timely manner in order to save the life of an
25 overdose victim by establishing a state policy exempting minor
26 drug possession or drug paraphernalia possession from criminal
27 prosecution in situations involving medical emergencies.

28 (f) It is not the intent of the Legislature to protect individuals
29 from prosecution for any offense not specifically described in
30 subdivision (a) or (b) of Section 11376.5 of the Health and Safety
31 Code, or to interfere with law enforcement protocols to secure the
32 scene of an overdose.

33 SEC. 2. Section 11376.5 is added to the Health and Safety
34 Code, to read:

35 11376.5. (a) Notwithstanding any other law, it shall not be a
36 crime for a person to be under the influence of, or to possess for
37 personal use, a controlled substance, controlled substance analog,
38 or drug paraphernalia, if that person, in good faith, seeks medical
39 assistance for another person experiencing a drug-related overdose
40 that is related to the possession of a controlled substance, controlled

1 ~~substance analog, or drug paraphernalia of the person seeking~~
2 ~~medical assistance, and that person does not obstruct medical or~~
3 ~~law enforcement personnel. No other immunities or protections~~
4 ~~from arrest or prosecution for violations of the law are intended~~
5 ~~or may be inferred.~~

6 ~~(b) Notwithstanding any other law, it shall not be a crime for a~~
7 ~~person who experiences a drug-related overdose and who is in~~
8 ~~need of medical assistance to be under the influence of, or to~~
9 ~~possess for personal use, a controlled substance, controlled~~
10 ~~substance analog, or drug paraphernalia, if the person or one or~~
11 ~~more other persons at the scene of the overdose, in good faith, seek~~
12 ~~medical assistance for the person experiencing the overdose. No~~
13 ~~other immunities or protections from arrest or prosecution for~~
14 ~~violations of the law are intended or may be inferred.~~

15 ~~(c) This section shall not affect laws prohibiting the selling,~~
16 ~~providing, giving, or exchanging of drugs, or laws prohibiting the~~
17 ~~forcible administration of drugs against a person's will.~~

18 ~~(d) Nothing in this section shall affect liability for any offense~~
19 ~~that involves activities made dangerous by the consumption of a~~
20 ~~controlled substance or controlled substance analog, including,~~
21 ~~but not limited to, violations of Section 23103 of the Vehicle Code~~
22 ~~as specified in Section 23103.5 of the Vehicle Code, or violations~~
23 ~~of Section 23152 or 23153 of the Vehicle Code.~~

24 ~~(e) For the purposes of this section, "drug-related overdose"~~
25 ~~means an acute medical condition that is the result of the ingestion~~
26 ~~or use by an individual of one or more controlled substances or~~
27 ~~one or more controlled substances in combination with alcohol,~~
28 ~~in quantities that are excessive for that individual that may result~~
29 ~~in death, disability, or serious injury. An individual's condition~~
30 ~~shall be deemed to be a "drug-related overdose" if a reasonable~~
31 ~~person of ordinary knowledge would believe the condition to be~~
32 ~~a drug-related overdose that may result in death, disability, or~~
33 ~~serious injury.~~